



ANALYSIS

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1975, No. 2

An Act to amend the Municipal Corporations Act 1954

[4 June 1975]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Municipal Corporations Amendment Act 1975, and shall be read together with and deemed part of the Municipal Corporations Act 1954 (hereinafter referred to as the principal Act).

(2) Section 5 of this Act shall come into force on a date to be fixed by the Governor-General, by Order in Council.

(3) Section 8 of this Act shall be deemed to have come into force on the 1st day of April 1974.

(4) Except as provided in subsections (2) and (3) of this section, this Act shall come into force on the date of its passing.

2. New sections (as to differential general rates) inserted—
The principal Act is hereby amended by inserting, after section 92, the following heading and sections:

“Differential General Rates

“92A. Differential general rates—(1) Where the Council makes and levies the general rate on the land value system, then, instead of making and levying that rate as a uniform rate over the district as a whole, or, as the case may be, over any ward as a whole, the Council may, pursuant to a special order, decide to adopt a system of general rating on a differential basis so that—

“(a) The rate made and levied in respect of any one or more specified types of property may vary from that made and levied in respect of another specified type of property; or

“(b) The rate made and levied in respect of property in any specified zone within the district or ward under an operative district scheme under the Town and Country Planning Act 1953 may vary from that made and levied in respect of property in another such zone within the district or ward:

“Provided that the rate made and levied upon any rateable property that is used for any purpose which under any operative, proposed, or draft district scheme within the meaning of the Town and Country Planning Act 1953 is neither a predominant use nor a permitted conditional use in the zone in which the property is situated shall be the rate which would be made and levied if that property were in another zone where that use is a predominant use or a permitted conditional use.

“(2) The following provisions shall apply with respect to every special order under subsection (1) of this section:

“(a) The resolution to make the special order shall specify the date on which differential general rating shall come into force in the district or ward, as the case may be, which shall be a day not earlier than the 1st day of April preceding the date fixed for the confirmation of the resolution and not later than 12 months after that 1st day of April:

“(b) Before giving public notice of the place and date for the meeting to confirm the resolution to make the special order, the Council shall cause to be deposited in the office of the Council a statement specifying—

“(i) The proposed basis or bases for differential general rating within the district or ward, as the case may be, and the matters taken into account in establishing the proposed basis or bases; and

“(ii) The general effect that the introduction of differential general rating is expected to have on the incidence of general rates as between rate-payers or groups of ratepayers within the district or ward, as the case may be; and

“(iii) Such other matters as the Council considers relevant:

“(c) Every such statement shall be open for inspection by the public without fee for at least one month before the date fixed for the confirmation of the resolution to make the special order, and public notice of the times when and the place or places where that inspection may be made shall be given by the Council.

“(3) In this section and in sections 92B to 92F of this Act the term ‘ward’ includes any division of the district constituted for financial purposes.

“92B. **Alteration to basis of differential general rating**—
The Council may, by special order, alter the basis or bases on which differential general rating is applied in the district or in any ward, as the case may be, and the provisions of section 92A (2) of this Act shall, with the necessary modifications, apply in respect of every such alteration as if the resolution to make the special order were a resolution passed under that section:

“Provided that no subsequent such alteration of the basis or bases shall be made so as to come into effect before—

“(a) The expiration of 5 years after the coming into effect of the immediately preceding alteration under this section; or

“(b) The date of the coming into force of the first revision of the district valuation roll for the district under the Valuation of Land Act 1951 made after the coming into effect of the immediately preceding alteration under this section,—

whichever is the earlier.

“92c. **Revocation of differential rating**—(1) The Council may, by special order, declare that differential rating within the district or within any ward shall be revoked.

“(2) Every resolution to which this section applies shall specify the date on which differential rating shall be revoked, which shall be a day not earlier than the 1st day of April preceding the date fixed for the confirmation of the resolution and not later than 12 months after that 1st day of April.

“92D. **Notice to Valuer-General**—The Town Clerk shall forthwith give notice in writing to the Valuer-General of every decision made by the Council pursuant to any of the provisions of sections 92A to 92C of this Act.

“92E. **Levying of differential general rate**—(1) So long as differential general rating continues in force in the district, or, as the case may be, in any ward, pursuant to section 92A of this Act, the Council, instead of making and levying a uniform general rate over the district as a whole, or, as the case may be, over that ward as a whole, shall make and levy a general rate on the basis or bases determined pursuant to that section of such differential amounts in the dollar as the Council by resolution fixes and determines from year to year.

“(2) In any such case, subject to subsection (3) of this section, the maximum general rate specified in section 90 of this Act may be exceeded in respect of any one or more specified types of property or, as the case may be, of property in any one or more specified zones:

“Provided that the total amount that would be produced from all general rates in the district or in any ward made and levied on a differential basis shall not exceed the total amount that would be produced if the maximum rate specified in the said section 90 were made and levied on a uniform basis on all rateable property in that district or ward.

“(3) In any district or ward in which the general rate is levied on a differential basis the total amount of general rates that may be produced by a general rate made and levied on all separately rateable property that is—

“(a) Farm land, being land that is used exclusively or principally for agricultural or horticultural or pastoral purposes or the keeping of bees or other livestock by an occupier whose income or a substantial part thereof is derived from the use of land for any such purpose or purposes; or

“(b) Land used solely or principally for residential purposes and occupied or intended to be occupied exclusively as the home or residence of not more than 2 households, not being part of a rateable

property in respect of which an apportionment of rates has been made under section 168 of the Rating Act 1967 and not being a stratum estate within the meaning of the Unit Titles Act 1972— shall not exceed the total amount that would be produced if the maximum rate specified in section 90 of this Act were made and levied on a uniform basis on—

“(c) Farm land as defined in paragraph (a) of this subsection; or

“(d) Residential land as defined in paragraph (b) of this subsection—

as the case may be.

“92F. **Application of proceeds of differential general rate—**

The proceeds of any differential general rate made and levied by the Council pursuant to section 92A of this Act shall be applied by the Council as if it were a general rate made and levied over the district as a whole or, as the case may be, over the ward as a whole.”

3. Adjusted valuation—The principal Act is hereby further amended by inserting, after section 110, the following section:

“110A. (1) Where the Council makes and levies any rate on the capital value or the land value system, the Council may from time to time of its own motion, where the current valuation roll for the district has been in effect for at least one year or, as the case may be, where the last preceding certificate under this section took effect at least one year previously, apply to the Valuer-General to make an updated assessment of the total capital value of all the rateable property within the district.

“(2) On receipt of any application under subsection (1) of this section, the Valuer-General shall, within 2 months after the receipt by him of that application, or as soon thereafter as may be, supply to the Council a certificate specifying the total amount of the rateable values on the capital value, calculated as at a date determined by the Valuer-General, of all the rateable property in the district.

“(3) Notwithstanding anything in section 29 of the Valuation of Land Act 1951, every certificate by the Valuer-General under this section shall have effect for the purposes of rates made by the Council after the 31st day of March in the calendar year in which the certificate is given and subsequent years, and until—

- “(a) It is superseded by a certificate issued under this section by the Valuer-General on a subsequent application; or
- “(b) A subsequent revaluation of the district is made by the Valuer-General; or
- “(c) Where the boundaries of the district are altered after the date of the issue of that certificate, the 31st day of March following the date of that alteration,—
- whichever event first occurs.

“(4) Where the valuation roll for the district took effect more than 5 years before the 1st day of April following the date on which an application was made under subsection (1) of this section, then, notwithstanding anything in subsection (2) of this section, the Valuer-General, if he considers that in the circumstances it is impracticable to make an updated assessment under this section, may refuse to supply a certificate.

“(5) The decision of the Valuer-General on any application under this section shall be final.

“(6) There shall be payable to the Valuer-General by the Council in respect of any application under this section such fee as the Valuer-General fixes in each case.”

4. Minimum charge for water and minimum water rate—

(1) Section 95 (2) (a) of the principal Act (as substituted by section 8 (1) of the Municipal Corporations Amendment Act 1959 and amended by section 4 of the Municipal Corporations Amendment Act 1961 and by section 7 of the Decimal Currency Act 1964) is hereby further amended by omitting from the proviso the expression “\$6” in both places where it occurs, and substituting in each case the expression “\$10”.

(2) Section 97 of the principal Act (as substituted by section 8 (1) of the Municipal Corporations Amendment Act 1959) is hereby amended by omitting from subsection (1) (as amended by section 2 of the Municipal Corporations Amendment Act 1960 and by section 7 of the Decimal Currency Act 1964) the expression “\$6”, and substituting the expression “\$10”.

(3) Section 4 of the Municipal Corporations Amendment Act 1961 is hereby repealed.

5. Remuneration of Mayor and Councillors—(1) The principal Act is hereby further amended by repealing section 114A (as substituted by section 14 (1) of the Municipal Corporations Amendment Act 1974), and substituting the following section:

“114A. (1) The Governor-General may from time to time, by Order in Council, fix—

“(a) The rate of the annual allowance of the Mayor of the borough:

“(b) The rate of the annual allowance or remuneration of Councillors who are Chairmen of standing committees appointed by the Council under section 64 of this Act:

“(c) The rate of remuneration of other Councillors (not being the Mayor of a borough or the Chairman of a town district):

“(d) The conditions subject to which any such allowance or remuneration payable is to be paid.

“(2) Every Order in Council under subsection (1) of this section may—

“(a) Fix different rates of allowances in respect of Mayors of different specified boroughs or of boroughs having different specified populations:

“(b) Fix different rates of allowances or remuneration in respect of Chairmen of specified standing committees appointed by specified Councils or by Councils of boroughs or town districts having different specified populations:

“(c) Provide that the rate of any allowance or remuneration shall be the actual rate that is to be paid or shall be the maximum rate that may be paid.

“(3) Any annual allowance or remuneration paid pursuant to any such order shall be paid out of the general revenues of the district.”

(2) The Local Authorities (Mayors and County Chairmen) Allowances Order 1974, so far as it relates to Mayors, is hereby validated and declared to be and always to have been validly made.

(3) The following enactments are hereby repealed:

(a) Section 45 of the principal Act (as substituted by section 2 (1) of the Municipal Corporations Amendment Act 1970):

(b) Section 2 of the Municipal Corporations Amendment Act 1970:

(c) Sections 9 and 14 of the Municipal Corporations Amendment Act 1974 and so much of the Schedule to that Act as relates to section 45 of the principal Act.

6. Council may prohibit consumption or possession of intoxicating liquor in streets closed for public functions or gatherings—The principal Act is hereby further amended by inserting, after section 204, the following heading and section:

“Consumption or Possession of Intoxicating Liquor in Streets Closed for Public Functions or Gatherings

“204A. (1) In addition to the powers conferred on the Council by section 170 of this Act or by regulations made pursuant to section 77 (1) (u) of the Transport Act 1962, the Council may, in any case where it considers that—

“(a) Any street or any specified part thereof (in this section referred to as the specified street) should be closed to ordinary vehicular traffic for any specified period or periods on the occasion of the holding in the specified street of any public event or function or gathering; and

“(b) The drinking of intoxicating liquor in the specified street during that period or those periods, and the bringing of intoxicating liquor or empty glass intoxicating-liquor containers into the specified street during that period or those periods, and the possession of intoxicating liquor or empty glass intoxicating-liquor containers in the specified street during that period or those periods should be prohibited,—

the Council may, by resolution,—

“(c) Close the specified street to ordinary vehicular traffic for any period or periods specified in the resolution; and

“(d) Prohibit the drinking of intoxicating liquor in the specified street during that period or those periods, and the bringing of intoxicating liquor or empty glass intoxicating-liquor containers into the specified street during that period or those periods, and the possession of intoxicating liquor or empty glass intoxicating-liquor containers in the specified street during that period or those periods.

“(2) No closure and prohibition under this section shall have effect for more than 12 hours in any consecutive period of 24 hours.

“(3) No prohibition under this section shall be deemed to prohibit—

- “(a) The transport of intoxicating liquor from premises on land having a frontage to the specified street during any period while pursuant to the Sale of Liquor Act 1962 intoxicating liquor may lawfully be sold on those premises for consumption off the premises, provided the liquor is promptly removed from the specified street:
- “(b) The transport of intoxicating liquor from outside the specified street for delivery to premises on land having a frontage to the specified street, being premises licensed for the sale of intoxicating liquor pursuant to the Sale of Liquor Act 1962:
- “(c) The transport of intoxicating liquor from outside the specified street to premises on land having a frontage to the specified street by or for delivery to a person residing on those premises or by his bona fide visitors, or from such premises to a place outside the specified street by a person residing on the premises, provided the liquor is promptly removed from the specified street.

“(4) Every resolution of the Council under this section shall be publicly notified, in a form prescribed by regulations made under this Act, in a newspaper circulating in the district on at least 3 occasions during the period of 21 days immediately preceding the day on which the street closure and prohibition are to have effect, or, where the street closure and prohibition are to have effect on 2 or more days, the first of those days. Without limiting the matters that may be prescribed in that form, the form shall specify the following matters:

- “(a) The street or part thereof to be closed to ordinary vehicular traffic:
- “(b) The acts forbidden by the prohibition under subsection (1) of this section:
- “(c) The day or days on which the street closure and prohibition are to have effect, and the hours of each day during which the street closure and prohibition are to have effect:
- “(d) The powers conferred on the Police by this section:
- “(e) The maximum penalty for offences against this section.

“(5) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$500, who, knowing that the closure and prohibition are in force in respect of the specified street,—

“(a) Drinks intoxicating liquor in any specified street in breach of any prohibition imposed pursuant to subsection (1) of this section; or

“(b) Brings intoxicating liquor or any empty glass intoxicating-liquor container into any specified street in breach of any such prohibition; or

“(c) Is in possession of intoxicating liquor or any empty glass intoxicating-liquor container in any specified street in breach of any such prohibition; or

“(d) Drives or rides any motor vehicle (being ordinary vehicular traffic) in any specified street that is for the time being closed to such traffic:

“Provided that nothing in this paragraph shall apply to the driving or riding of a motor vehicle by a person residing in premises on land having a frontage to the specified street or by his bona fide visitors.

“(6) Any constable may, without warrant,—

“(a) Arrest any person whom he finds committing an offence against this section:

“(b) During the period of the closure, arrest any person whom he has reasonable cause to suspect of having committed such an offence:

“(c) Search any parcel, package, bag, case, or other container in the possession of any person in or entering or about to enter any specified street in respect of which any prohibition under subsection (1) of this section is for the time being in force, for the purpose of ascertaining whether or not the parcel, package, bag, case, or container contains any intoxicating liquor or any empty glass intoxicating-liquor container:

“Provided that before exercising the power of search conferred by this paragraph, the constable shall inform the person in possession of the parcel, package, bag, case, or other container of the provisions of subsection (7) of this section, and in any case where that person is in possession thereof in the specified street, give him a reasonable opportunity of removing the same from the specified street.

“(7) A constable shall not exercise the power of search conferred by subsection (6) of this section if the person in possession of the parcel, package, bag, case, or other container removes it from or, as the case may be, refrains from taking it into the specified street and leaves it outside that street until the period of the prohibition ceases.

“(8) Any constable may seize and remove any intoxicating liquor and any intoxicating-liquor container which he has reasonable cause to believe would be evidence of the commission of an offence against this section. Any liquor or container so seized in respect of which any person is convicted of an offence under this section, together, in the case of any liquor, with the vessels containing the liquor, shall be deemed to be forfeited to the Crown.

“(9) In this section—

“‘Intoxicating liquor’ means liquor as defined in the Sale of Liquor Act 1962:

“‘Ordinary vehicular traffic’, in relation to any specified street, means all vehicular traffic other than traffic of any kind (if any) that pursuant to the resolution of the Council under subsection (1) of this section is permitted to use the specified street during the period of the closure.”

7. Bylaws as to hawkers, pedlars, etc.—(1) Section 386 (1) of the principal Act is hereby amended by repealing paragraph (28), and substituting the following paragraph:

“(28) Defining and licensing and regulating the conduct of hawkers, pedlars, itinerant purchasers of goods, keepers of coffee and other stalls, porters, and boatmen, and requiring any such person to display such means of identification as may be required by the Council:

“Provided that the licence fee for a hawker or pedlar shall not exceed \$10 a year:

“Provided also that no such bylaw shall apply to the owner of a fishing boat registered under Part I of the Fisheries Amendment Act 1963 and in respect of which a boat-fishing permit is for the time being in force, where he, or a person appointed by him in that behalf, sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed, or beached or from a stall (including a vehicle used as a stall) within 450 metres of that place:”.

- (2) The following enactments are hereby repealed:
- (a) Section 29 of the Auctioneers Act 1928:
 - (b) Section 40 of the Municipal Corporations Amendment Act 1971.

8. References to District Fund and to General Account—
Every reference in any other Act or in any regulation, rule, order, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this section—

- (a) To the District Fund shall, after the commencement of this section, be read as a reference to the general revenues of the district:
- (b) To the General Account shall, after the commencement of this section, be read as a reference to the General and Separate Rates and General Appropriations Account.

This Act is administered in the Department of Internal Affairs.
